

# FINAL BILL REPORT

## E2SHB 1238

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Synopsis as Enacted

**Brief Description:** Providing free school meals for all.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Riccelli, Harris, Alvarado, Thai, Simmons, Senn, Rude, Reeves, Reed, Walen, Peterson, Ortiz-Self, Ormsby, Taylor, Leavitt, Fitzgibbon, Duerr, Doglio, Berry, Bateman, Morgan, Fey, Ramel, Goodman, Fosse, Pollet, Lekanoff, Macri, Chopp, Stonier, Gregerson and Santos; by request of Superintendent of Public Instruction).

**House Committee on Education**

**House Committee on Appropriations**

**Senate Committee on Early Learning & K-12 Education**

**Senate Committee on Ways & Means**

### **Background:**

#### Federal School Nutrition Programs, Free and Reduced-Price Meals.

The National School Lunch Program (NSLP) and the School Breakfast Program (SBP) are child nutrition programs funded by the United States Department of Agriculture (Department of Agriculture). The NSLP and the SBP are designed to promote the health and well-being of children by providing nutritionally balanced, low-cost or no-cost meals to children each school day. The NSLP and the SBP are administered in Washington by the Office of the Superintendent of Public Instruction (OSPI), and both programs provide reimbursements to school districts for served meals that meet federal requirements.

Household applications submitted by families to schools are used to determine student eligibility for free or reduced-price meals (FRPMs). To qualify for free school meals, a student's family income must be at or below 130 percent of the federal poverty level (FPL). Students whose families have an income between 130 percent and 185 percent of the FPL are eligible for reduced-price meals. Students whose families earn more than 185 percent of the FPL pay full price, but the meals are federally subsidized to some extent.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

The Community Eligibility Provision (CEP) of the federal Healthy, Hunger-Free Kids Act provides an alternative to household applications for FRPMs by allowing schools with high numbers of low-income students to serve free meals to all students. A school, group of schools, or school district is eligible for the CEP if at least 40 percent of its students are identified as eligible for free meals through means other than household applications. The percentage of eligible students identified without using household applications is the identified student percentage (ISP).

Each public school that has an ISP of at least 40 percent, or a lower percentage if authorized by federal law, as determined annually by each April 1, must participate in the CEP in the subsequent school year and throughout the duration of the CEP's four-year cycle.

The Families First Coronavirus Response Act (P.L. 116-127), federal legislation adopted in 2020 and subsequently extended, allowed states, through a waiver issued by the Department of Agriculture, to provide meals at no charge to all students, regardless of family income, through the 2021-22 school year. Federal provisions authorizing states to provide meals at no charge to all students during the school year have expired.

#### School Breakfast Programs.

Subject to funding requirements, school districts must implement a school breakfast program in each school where more than 40 percent of students eligible to participate in the school's lunch program qualify for FRPMs. If a school with 40 percent or more of its students qualifying for FRPMs begins a lunch program, the school must begin a breakfast program in the second year after commencing its lunch program.

#### Learning Assistance Program.

The Learning Assistance Program (LAP) supports the provision of supplemental instruction and services for students who are not meeting academic standards, a term defined to mean students with the greatest academic deficits in basic skills as identified by statewide, school, or school district assessments or other performance measurement tools.

The state provides two types of funding allocations for the LAP: a general LAP allocation, and an additional high poverty-based allocation for qualifying schools. School districts and schools qualify for one or both allocations based on prior years' percentages of students who qualify for FRPMs.

#### National Board Certification Bonuses.

Teachers and other certificated instructional staff (CIS) who have attained certification from the National Board for Professional Teaching Standards (National Board) are eligible for a state-funded bonus for each year they maintain the certification. A qualifying CIS who holds a valid certificate from the National Board for the duration of the 2022-23 school year will receive a bonus of \$6,019.

An additional state-funded annual bonus of \$5,000 is paid to each qualifying CIS with a

valid National Board certificate and an instructional assignment in a qualifying high poverty school. "High poverty schools" are designated in rule by the OSPI and must meet threshold requirements for the percentage of students who are eligible for FRPMs.

**Summary:**

Providing Public School Students at Qualifying Schools with Access to Meals Served Without Charge.

Beginning with the 2023-24 school year, school districts, a term that includes charter schools and state-tribal education compact schools, must provide breakfast and lunch each school day to any student at a qualifying school who requests a breakfast, lunch, or both. The school districts must provide the meals at no charge to the requesting student and without consideration of the student's eligibility for a federally reimbursed free or reduced-price meal (FRPM). The provided meals must be nutritiously adequate and qualify for reimbursement under the National School Lunch Program (NSLP) or the federal School Breakfast Program (SBP), and students are not eligible for more than one meal in a meal service period.

The obligation to provide meals at no charge to requesting students, which lapses if federal reimbursements for school breakfasts or lunches are eliminated, applies to public schools in which:

- educational services are provided to students in any of the grades of kindergarten through grade 4; and
- thirty percent or more of the enrolled students meet federal eligibility requirements for FRPMs.

The Superintendent of Public Instruction may exempt school districts from the requirements to provide meals at no charge to requesting students if the district shows good cause for not being able to comply with the requirements. Additionally, the meal provision requirements do not apply to schools participating in the Community Eligibility Provision (CEP) that have not completed the duration of the CEP's four-year cycle.

The meal provision requirements are phased in over a two-year period. Beginning in the 2023-24 school year, schools in which 40 percent or more of their enrolled students meet federal requirements for FRPMs must begin providing the meals at no charge to students. Beginning in the 2024-25 school year, the meal provision requirements apply all qualifying schools in which 30 percent or more of the enrolled students meet federal eligibility requirements for FRPMs.

The Office of the Superintendent of Public Instruction must reimburse school districts on a per-meal reimbursement basis for meals that are not already reimbursed at the United States Department of Agriculture (Department of Agriculture) free rate. The additional state reimbursement amount must be the difference between the Department of Agriculture's free rate and its paid rate.

School districts must continue collecting meal applications where applicable and run direct certification at least monthly. Additionally, school districts must annually monitor data for eligibility in the CEP and apply where eligible.

School Breakfast Programs.

Beginning in the 2023-24 school year, and in accordance with requirements governing the provision of no charge meals to all requesting students, school districts must implement a school breakfast program in each school that is required to provide the no charge meals.

Community Eligibility Provision.

The requirement obligating public schools with an identified student percentage (ISP) of less than 40 percent to participate in the CEP if authorized by federal law is repealed.

Washington Produced Food.

Public schools providing school meals to students are encouraged to buy Washington produced food whenever practicable and when cost is comparable to non-Washington produced food.

Other Provisions.

*Learning Assistance Program.* Funding provisions for the Learning Assistance Program (LAP) are modified as follows for the 2024-25 and 2025-26 school years:

- general LAP allocations for school districts providing meals at no charge to all requesting students that do not participate in the CEP must be based on the school district percentage of students who were eligible for FRPMs in school years 2019-20 through 2022-23 or the prior school year, whichever is greatest; and
- for the high poverty-based allocation, a school providing meals at no charge to all requesting students that is not participating in the CEP continues to be eligible for the high poverty-based allocation if the school qualified during one year of the 2019-20 through 2022-23 school years, or in the prior school year.

*National Board Certified Teacher Bonuses.* For the 2024-25 and 2025-26 school years, a qualifying certificated instructional staff is eligible for the high poverty schools annual bonus of \$5,000 if they are in an instructional assignment in a school providing meals at no charge to all requesting students that met the definition of high poverty school during the 2022-23 school year.

**Votes on Final Passage:**

House	93	3	
Senate	44	5	(Senate amended)
House	92	4	(House concurred)

**Effective:** July 23, 2023

September 1, 2024 (Section 6)